

R277. Education, Administration.

R277-613. LEA Disruptive Student Behavior, Bullying, Cyber-bullying, Hazing, ~~and Harassment~~Retaliation, and Abusive Conduct Policies and Training.

R277-613-~~[2]~~1. Authority and Purpose.

~~[A:]~~(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision ~~of~~over public education in the Board~~[-]; and~~

(b) Subsection ~~[53A-1-401(3)]~~ 53E-3-401(4)(a), which allows the Board to ~~[adopt]~~make rules [in accordance with its responsibilities,] to execute the Board's duties and responsibilities under the Utah Constitution and state law~~[-and the responsibility of the Board to provide assistance with and ensure LEA compliance with Section 53A-11a-301].~~

~~[B:]~~(2) The purpose of the rule is to:

(a) require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, ~~[and harassment]~~retaliation, and abusive conduct policies [district and school wide]at the school district and school level;

(b) ~~[to]~~provide for regular and meaningful training of school employees and students;

(c) ~~[to]~~provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and

(d) ~~[to require LEAs to notify parents of specific bullying, cyber-bullying, hazing, harassment and suicide threat incidents; and to require LEAs to maintain documentation as required by law]~~require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.

R277-613-~~[4]~~2. Definitions.

~~[A. "Board" means the Utah State Board of Education.]~~

(1) "Abusive conduct" means the same as that term is defined in Subsection 53G-9-601(1).

~~[B:]~~(2)(a) "Bullying" means the same as that term is defined in Subsection 53G-9-601(2). ~~[intentionally or knowingly committing an act that:~~

~~———— (1)(a) endangers the physical health or safety of a school employee or student;~~
~~———— (b) involves any brutality of a physical nature such as whipping, beating, branding,~~
~~calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or~~
~~exposure to the elements;~~
~~———— (c) involves consumption of any food, liquor, drug, or other substance;~~
~~———— (d) involves other physical activity that endangers the physical health and safety of~~
~~a school employee or student; or~~
~~———— (e) involves physically obstructing a school employee's or student's freedom to~~
~~move; and~~
~~———— (2) is done for the purpose of placing a school employee or student in fear of:~~
~~———— (a) physical harm to the school employee or student; or~~
~~———— (b) harm to property of the school employee or student.]~~
(b) "Bullying" includes relational aggression or indirect, covert, or social aggression,
including rumor spreading, intimidation, enlisting a friend to assault a child, and social
isolation.
~~———— ([3]c) The conduct described in [R277-613-1B] Subsection 53G-9-601(2) constitutes~~
~~bullying, regardless of whether the person against whom the conduct is committed~~
~~directed, consented to, or acquiesced in, the conduct.~~
(3) "Civil rights violation" means bullying, cyber-bullying, harassment, or hazing that
is targeted at a student based upon the students' or employees' identification as part of any
group protected from discrimination under the following federal laws:
(a) Title VI of the Civil Rights Act of 1964;
(b) Title IX of the Education Amendments of 1972; or
(c) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with
Disabilities Act of 1990.
~~———— [(4) Bullying is commonly understood as aggressive behavior that:~~
~~———— (a) is intended to cause distress and harm;~~
~~———— (b) exists in a relationship in which there is an imbalance of power and strength; and~~
~~———— (c) is repeated over time.]~~
~~———— [[C.](3) "Civil rights violations," for purposes of this rule, means bullying, cyber-~~

bullying, hazing, or ~~[harassing]retaliation~~ that is targeted at a federally protected class.]

[D.][(4)][(3)](4) "Cyber-bullying" means the same as that term is defined in Subsection 53G-9-601(4)~~[using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication].~~

[(5)][(4)](5) "Disruptive student behavior" means the same as that term is defined in Subsection 53G-8-210(1)(a).

[E.][(6)] ["Federally protected class" means any group protected from discrimination under the following federal laws:

———([1]a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin;

———([2]b) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;

———([3]c) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability; and

———([4]d) [O]ther areas included under these acts described in Subsection (5)(a) through (c), which prohibit discrimination on the basis of religion[, gender identity, and sexual orientation].]

[F. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.]

[G.][(7)][(5)](6) "Hazing" means the same as that term is defined in Subsection 53G-9-601(5). [intentionally or knowingly committing an act that:

———(1)(a) endangers the physical health or safety of a school employee or student;

———(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

———(c) involves consumption of any food, liquor, drug, or other substance;

90 ~~_____ (d) involves other physical activity that endangers the physical health and safety of~~
91 ~~a school employee or student; or~~

92 ~~_____ (e) involves physically obstructing a school employee's or student's freedom to~~
93 ~~move; and~~

94 ~~_____ (f)(i) is done for the purpose of initiation or admission into, affiliation with, holding~~
95 ~~office in, or as a condition for, membership or acceptance, or continued membership or~~
96 ~~acceptance, in any school or school sponsored team, organization, program, or event; or~~

97 ~~_____ (ii) if the person committing the act against a school employee or student knew that~~
98 ~~the school employee or student is a member of, or candidate for, membership with a~~
99 ~~school, or school sponsored team, organization, program, or event to which the person~~
100 ~~committing the act belongs to or participates in.~~

101 ~~_____ (2) The conduct described in R277-613-1G constitutes hazing, regardless of~~
102 ~~whether the person against whom the conduct is committed, directed, consented to, or~~
103 ~~acquiesced in, the conduct.]~~

104 [H.][(8)][(6)](7) "LEA" [means a local education agency, including local school
105 boards/public school districts, charter schools, and]includes, for purposes of this rule, the
106 Utah Schools for the Deaf and the Blind.

107 [I. "Parent," for purposes of this rule, means a student's guardian consistent with
108 Section 53A-11a-203(1).]

109 [J.][(9)][(7)](8) "Participant" means any student, employee or volunteer coach
110 participating in a public school sponsored athletic program or activity, [both]including a
111 curricular, co-curricular, [and]or extracurricular[, or extracurricular] club or activity.

112 [K.][(10)][(8)](9) "Policy" means standards and procedures that:

113 (a) are required in Section 53G-9-605;

114 (b) include the provisions of Section [53A-11-901] 53G-8-202; and

115 (c) provide additional standards, procedures, and training adopted in an open
116 meeting by an LEA board that:

117 (i) define bullying, cyber-bullying, hazing, [and harassment]retaliation, and abusive
118 conduct[;]; [and]

119 (ii) prohibit bullying, cyber-bullying, hazing, [and harassment]retaliation, and abusive

conduct[;];

(iii) require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing, ~~[and harassment]~~ and retaliation among school employees and students; and

(iv) provide for enforcement through employment action or student discipline.

~~[(11)][(9)]~~ (10) "Restorative justice practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.

~~[L.][(12)][(10)]~~ (11) "Retaliate" or "retaliation" means the same as that term is defined in Subsection 53G-9-601(7)~~[an act or communication intended:~~

~~—— (1) as retribution against a person for reporting bullying, cyber-bullying, hazing and harassment; or~~

~~—— (2) to improperly influence the investigation of, or the response to, a report of bullying, cyber-bullying, hazing and harassment].~~

~~[(13)][(11)]~~ (12) "School employee" means the same as that term is defined in Subsection 53G-9-601(10).

~~[(14)][(12)]~~ (13) "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the alleged ~~[targeted individual]~~ victim and the individual who is alleged to have engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

R277-613-3. ~~[Utah State Board of Education]~~ Superintendent Responsibilities.

~~[A.](1) [To the extent of resources available]~~ Subject to availability of funds, the [Board] Superintendent shall provide~~[training opportunities or materials or both for employees of LEAs on]:~~

(a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606;

(b) model training and training opportunities on:

(i) the prevention and identification of bullying, cyber-bullying, hazing, and retaliation, that an LEA may use to train the LEA's employees, contract employees, and volunteers, including coaches; and

(ii) the reporting and review requirements in Section R277-613-5;

(c) evidence based practices and policies related to the prevention of bullying, cyber-bullying, hazing, and [harassment]retaliation.

(2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).

[B-](3) The Board may interrupt disbursements of funds consistent with Subsection [53A-1-401(3)] 53E-3-401(8) and Rule R277-114 for failure of an LEA to comply with:

(a) Title 53G, Chapter 9, Bullying and Hazing; and

(b) this rule.

(4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and this R277-613, LEAs are required to comply with applicable federal requirements.

R277-613-[5]4. LEA Responsibility to Create or Update Bullying Policies.

[A. Each LEA shall implement an updated policy prohibiting bullying, cyber-bullying, hazing, harassment and retaliation, and making a false report, consistent with Section 53A-11a-301.

—B-](1) [Each]In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(a) develop, update, and implement policies as required by Section 53G-9-605 and this rule, which shall include a prohibition on:

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation; and

(v) making a false report.

~~[(1)]~~b) post a copy of ~~[its]~~the LEA's policy on the LEA website;~~[-and]~~

~~[(2)]~~provide a copy of the LEA policy or uniform resource locator (URL) to the State Superintendent of Public Instruction at the Utah State Office of Education.

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and

(d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually.

~~[C.](2)(a)~~ [The policy shall include parental notification]As required by Section 53G-9-605, an LEA shall notify a parent of:

~~[(1)]~~i) a parent's student's threat to commit suicide; ~~[and]~~or

~~[(2)]~~ii) an incident of bullying, cyber-bullying, hazing,~~[-harassment]~~ or retaliation involving the parent's student as a ~~[targeted individual]~~ victim or an individual who is alleged to have engaged in prohibited conduct.

~~[(3)]~~b) ~~[This part of the policy shall also include]~~An LEA shall:

~~[(a)]~~i) ~~[timely parent notification]~~notify a parent described in Subsection (2)(a) in a timely manner;

~~[(b)]~~ii) designat~~[ion of]~~e the appropriate school employee~~[(s)]~~ to provide parental notification; and

~~[(c)]~~iii) designat~~[ion of]~~e the format in which notification ~~[shall be]~~is provided to parents and maintained by the LEA[;

~~———— (d) directives for secure maintenance of the notification record as required under Section 53A-11a-203(1);~~

~~———— (e) a retention period and destruction process for the notification; and~~

~~———— (f) an LEA definition of parent(s) consistent with Section 53A-11-203 and this rule].~~

~~[D.](3)~~ ~~[The policy shall provide for student assessment of the]~~Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and ~~[harassment]~~ retaliation in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch

208 areas.

209 ~~[E.](4) [The policy shall include required]~~An LEA shall take strong responsive action
210 against retaliation, including assistance to [harassed students]~~[targeted individual]~~victims
211 and their parents in reporting subsequent problems and new incidents.

212 ~~[F.](5)(a) [The policy]~~An LEA shall provide that students, [staff,]school employees,
213 coaches, and volunteers receive training on bullying, cyber-bullying, hazing, and
214 harassment]retaliation, from individuals qualified to provide such training.~~[The LEA shall~~
215 determine how often training shall be provided.]

216 ~~[(1)]b~~ The training ~~[should be specific to]~~described in Subsection (5)(a) shall:

217 ~~[(a)]i~~ include information on various types of aggression and bullying, including:

218 (A) overt aggression that may include physical fighting such as punching, shoving,
219 kicking, and verbal threatening behavior, such as name calling, or both physical and verbal
220 aggression or threatening behavior;

221 [(b)]B) relational aggression or indirect, covert, or social aggression, including rumor
222 spreading, intimidation, enlisting a friend to assault a child, and social isolation;

223 [(c)]C) sexual aggression or acts of a sexual nature or with sexual overtones;

224 [(d)]D) cyber-bullying, including use of email, web pages, text messaging, instant
225 messaging, social media, three-way calling or messaging or any other electronic means
226 for aggression inside or outside of school; [and]

227 (E) bullying, cyber-bullying, hazing and retaliation based upon the students' or
228 employees' identification as part of any group protected from discrimination under the
229 following federal laws:

230 (i) Title VI of the Civil Rights Act of 1964, including discrimination on the basis of
231 race, color, or national origin;

232 (ii) Title IX of the Education Amendments of 1972, including discrimination on the
233 basis of sex; or

234 (iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with
235 Disabilities Act of 1990, including discrimination on the basis of disability; and

236 ~~[(e)]F) [civil rights violations,][appropriate reporting and investigative procedures.~~
237 This] [includes] bullying, cyber-bullying, hazing, and [harassment]retaliation based

upon the students' or employees' actual or perceived ~~[identities]~~ characteristics, including race, color, national origin, sex, disability, religion, gender identity, sexual orientation, or other physical or mental attributes or ~~[and]~~ conformance or failure to conform with stereotypes[-];

~~[(2) Training should also include awareness and intervention skills such as social skills training for students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches.]~~

~~[(3)ii] [Training on bullying, cyber-bullying, hazing and harassment required of LEA policies under the rule should -]complement the suicide prevention program required for students under Rule R277-620 and the suicide prevention training required for licensed educators consistent with Subsection 53G-9-704(1)[-]; and~~

~~(iii) include information on when issues relating to this rule may lead to student or employee discipline.~~

(6) The training described in Subsection (5) shall be offered to:

(a) new school employees, coaches, and volunteers; and

(b) all school employees, coaches, and volunteers at least once every three years.

~~[G-](7)(a) An LEA's [P]olicies developed under this section shall[also] complement existing [safe and drug free] school policies and research based school discipline plans.~~

(b) Consistent with Rule R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, [harassment]retaliation and disruptive students.

(c) [This part of the]An LEA shall ensure that a discipline plan required by Rule R277-609[shall]:

[(1)i] directs schools to determine the range of behaviors and establish the continuum of administrative procedures [that may be]to be used by school personnel to address the behavior of~~[-habitually disruptive]~~ students;

[(2)ii] provides for identification, by position~~[(s)]~~, of individual~~[(s)]~~ designated to issue notices of disruptive student behavior,~~[-and]~~ bullying, cyber-bullying, hazing, and harassment behavior]retaliation;

[(3)iii] designates to whom notices shall be provided;

(~~[4]~~iv) provides for documentation of disruptive student behavior [~~prior to referral of disruptive students to juvenile court~~] in the LEA's student information system;

(~~[5]~~v) includes strategies to provide for necessary adult supervision;

(~~[6]~~vi) [~~be~~is] clearly written and consistently enforced; and

(~~[7]~~vii) includes administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility [~~;~~ and].

~~(8) provides notice to employees that violation(s) of this rule may result in employment discipline or action.]~~

R277-613-5. Reporting and Incident Review Investigations of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation.

(1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:

(a) [review] investigate allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and

(b) provide an individual who [reviews] investigates allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting [a review] an investigation.

(2)(a) An LEA shall [review] investigate allegations of incidents described in Subsection (1)(a) by interviewing at least the alleged [targeted individual] victim and the individual who is alleged to have engaged in prohibited conduct.

(b) An LEA may also interview the following as part of [a review] an investigation:

(i) parents of the alleged [targeted individual] victim and the individual who is alleged to have engaged in prohibited conduct;

(ii) any witnesses;

(iii) school staff; and

(iv) other individuals who may provide additional information.

(c) An individual who [reviews] investigates an allegation of an incident shall inform

an individual being interviewed that:

(i) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and

(ii) further reports of bullying will become part of the review.

(3) The confidentiality requirement in Subsection (2)(c) does not apply to:

(a) conversations with law enforcement professionals;

(b) requests for information pursuant to a warrant or subpoena;

(c) a state or federal reporting requirement; or

(d) other reporting required by this rule.

(4) In conducting a review an investigation under this section, an LEA may:

(a) review disciplinary reports of involved students; and

(b) review physical evidence, consistent with search and seizure law in schools, which may include:

(i) video or audio;

(ii) notes;

(iii) email;

(iv) text messages;

(v) social media; or

(vi) graffiti.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

(6) Following a review an investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, or retaliation, if appropriate, an LEA may:

(a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA; and

(b) support involved students through trauma-informed practices, if appropriate.

(6)(a) An alleged targeted individual victim is not required to participate in a restorative justice practice with an individual who is alleged to have engaged in prohibited conduct as described in Subsection (5)(a).

(b) If an LEA would like an alleged targeted individual victim who is a student to

participate in a restorative justice practice, the LEA shall notify the alleged [targeted individual's] victim's parent of the restorative justice practice and obtain consent from the alleged [targeted individual's] victim's parent before including the alleged [targeted individual] victim in the process.

(7) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.

(8) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

(a) a copy of LEA's policy required in Section R277-613-4;

(b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);

(c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;

(d) incidents of bullying, cyber-bullying, hazing, and retaliation; ~~[and]~~

~~[(e) the number of incidents described in Subsection (8)(d) that included a student who:]~~

~~[(i) is part of a federally protected class; or]~~

(e) the number of incidents described in Subsection (8)(d) required to be reported separately under federal law, including the reporting requirements in:

(i) Title VI of the Civil Rights Act of 1964;

(ii) Title IX of the Education Amendments of 1972; or

(iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990; and

(f) the number of incidents described in Subsection (8)(d) that include a student who was bullied, cyber-bullied, hazed, or retaliated against ~~[because the of]~~ based on the student's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

(9) The requirements of this R277-613 are in addition to any federal requirements, including reporting civil rights violations to the appropriate entities and taking other

appropriate action.

R277-613-[5]6. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.

[A-](1)(a) Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, ~~[and harassment]~~ and retaliation prevention training.

(b) ~~[This]~~A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

~~[B. LEAs may collaborate with the Utah High School Activities Association to develop and provide training.]~~

~~[C-]~~(2) ~~[Student]~~An LEA shall inform student athletes and extracurricular club members~~[shall be informed]~~ of prohibited activities under this rule and~~[notified of]~~ potential consequences for violation of the law and the rule.

~~[D-]~~(3) An LEA shall maintain ~~[F]~~training ~~[curriculum outlines, training schedules, and]~~ participant lists or signatures, ~~[shall be maintained by each LEA and]~~ to be provided to the ~~[Utah State Office of Education]~~Board upon request.

~~[R277-613-6. Professional Responsibilities of Employee and Volunteer Coaches.~~

~~—— A. All public school coaches shall act consistent with professional standards of R277-515 in all responsibilities and activities of their assignments.~~

~~—— B. Failure to act consistently with R277-515 toward students, colleagues and parents may result in discipline against an educator's license or termination of volunteer services.]~~

R277-613-7. Abusive Conduct.

(1) An LEA shall prohibit abusive conduct.

(2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section 53A-11a-301 and this rule, shall include a grievance process for

385 a school employee who has experienced abusive conduct as described in Subsection 53G-
386 9-605(3)(f).

387 **KEY: bullying, cyber-bullying, hazing, [~~harassment~~]retaliation, abusive conduct,**
388 **policies, training**

389 **Date of Enactment or Last Substantive Amendment: [~~October 8, 2013~~]2018**

390 **Notice of Continuation: [~~August 2, 2013~~]2018**

391 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [~~53A-1-401(3);~~**
392 **~~53A-11a-301~~] 53E-3-401(4); 53G, Chapter 9**